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Civil Engineering

COMPLIANCE TRACKING AND REPORTING

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This instruction implements AFD 32-70, *Environmental Quality*. It identifies requirements for managing and reporting enforcement actions and compliance agreements resulting from inspections of Air Force environmental programs by Federal, state, and local regulatory agencies. Overseas Air Force activities must track and report compliance under AFI 32-7006, *Overseas Environmental Program* (formerly AFR 19-9). **Attachment 1** lists the abbreviations, acronyms, and terms used in this instruction.

(AFRC) The OPR for this supplement is HQ AFRC/CEV (Mr. Robert Akridge). This supplement implements and extends the guidance of Air Force Instruction (AFI) 32-7047, 31 March 1994. The AFI is published word-for-word without editorial review. Air Force Reserve supplementary material is indicated by “(AFRC)” in bold face type. This supplement describes Air Force Reserve procedures to be used to clarify reporting regulatory inspections and notices of non-compliance.

Section A—How To Use This Instruction

1. Objectives. The Air Force manages its compliance programs to achieve and maintain compliance with applicable Federal, state, and local environmental laws and standards. A key factor in attaining these objectives is acquiring and reporting accurate and reliable information on the status of Air Force compliance with such standards.

2. Concept. This instruction is intended to provide major commands (MAJCOM) and installations a framework for tracking, reporting, and resolving noncompliance with environmental laws and standards. MAJCOMs provide additional implementing guidance in their supplemental publications to this instruction. MAJCOM supplements must identify the specific "actors" who have implementing responsibility and include any "how to" guidance needed to comply.

3. Responsibilities:

3.1. Headquarters US Air Force (HQ USAF):

3.1.1. The Assistant Secretary of the Air Force for Manpower, Reserve Affairs, Installations, and Environment (SAF/MI):

- Promulgates and oversees policy for compliance tracking and reporting.
- Serves as the principal Air Force representative on all compliance-related issues with the Office of the Secretary of Defense (OSD) staff, Federal agencies, and the Congress.
- Coordinates Air Force compliance tracking and reporting procedures with the other Services to explore common areas of interest and prevent duplication of effort.

3.1.2. The Civil Engineer (HQ USAF/CE):

- Formulates policy, allocates resources, and oversees compliance tracking and reporting requirements throughout the Air Force.
- Serves as the Air Force focal point for coordinating compliance tracking and reporting policies and resource needs with SAF/MI.
- Coordinates Air Force compliance tracking and reporting with other HQ USAF offices.
- Evaluates overall Air Force compliance performance and reports results to SAF/MI, MAJCOMs, the Air National Guard (ANG), and appropriate field operating agencies (FOA).
- Identifies and prioritizes resources in the planning, programming, and budgeting system (PPBS) to implement compliance tracking and reporting procedures throughout the Air Force.
- Designates lead MAJCOMs and FOAs for special compliance tracking and reporting projects and studies.
- Analyzes Air Force compliance performance, identifies negative trends, and seeks to correct negative trends.

3.1.3. The Judge Advocate General (HQ USAF/JA):

- Through the Air Force Legal Services Agency, Environmental Law and Litigation Division (AFLSA/JACE) gives legal advice on complying with environmental laws, resolving enforcement actions, and litigation matters.
- Give legal advice on regional issues through the AFLSA/JACE legal staff at each Regional Compliance Office.

3.1.4. The Surgeon General (HQ USAF/SG):

- Develops compliance tracking and reporting requirements for the Medical Service.
- Coordinates bioenvironmental engineering support for compliance tracking and reporting with HQ USAF/CE, SAF/MI, and MAJCOMs.
- Aligns requirements of this AFI with AFIs issued by HQ USAF/SG.

3.2. Major Commands. MAJCOMs provide execution guidance and oversee implementation of compliance tracking and reporting programs at their installations. All references to MAJCOMs in this AFI include the Air National Guard Readiness Center (ANGRC) and other agencies designated as "MAJCOM equivalent" by HQ USAF.

3.2.1. Civil Engineer:

- Develops supporting directives to implement this instruction.
- Helps bases in their command comply with all applicable Federal, state, and local environmental standards.
- Analyzes MAJCOM compliance performance and identifies negative trends.
- Requests and allocates resources to execute this instruction.
- Reports inspections by regulatory agencies, enforcement actions, and the status of ongoing attempts to resolve enforcement actions and compliance agreements to the Air Force Center for Environmental Excellence (AFCEE) Regional Compliance Offices or to HQ USAF/CEVC and AFLSA/JACE according to paragraph 6.

3.2.2. Surgeon:

- Implements compliance tracking and reporting programs within their command to identify adverse trends and events involving Medical Service responsibilities.
- Reports metric information to HQ AFMOA/SGPA according to AFD 48-1, *Aerospace Medical Program*.

3.3. Field Operating Agencies. FOAs provide technical and contracting support to achieve compliance tracking and reporting program objectives.

3.3.1. Air Force Civil Engineer Support Agency (AFCESA). AFCESA provides technical assistance to bases regarding facilities, utilities, infrastructure, and Civil Engineer Squadron organization and maintenance management.

3.3.2. Air Force Center for Environmental Excellence:

- Represents the Air Force on a regional basis in dealing with Federal, regional, state, and local environmental regulatory agencies.
- Consolidates MAJCOM inputs for compliance status update briefings to HQ USAF/CE and SAF/MIQ.
- Identifies trends in Air Force compliance performance.
- Disseminates "lessons learned" compliance-related information to MAJCOMs, appropriate FOAs, Armstrong Laboratory, and installations.
- Coordinates and validates MAJCOM compliance status updates with appropriate Federal, state, and local agencies.
- Meets regularly with Federal, regional, and state regulatory officials to discuss Air Force compliance status and other issues that may affect Air Force compliance programs.
- Advises MAJCOMs, FOAs, and installations of regional and state regulatory proposals and other initiatives that may affect Air Force compliance programs.

3.3.3. Armstrong Laboratory (AL):

- Helps MAJCOMs achieve and maintain compliance with applicable Federal, state, and local regulatory requirements by providing laboratory analytical, consultant, contractual, and field survey services.

- Ensures that analytical services meet all applicable Federal, state, and local regulatory requirements for timeliness and correct analytical methods.
- Analyzes Air Force compliance performance involving environmental monitoring.
- Identifies adverse trends and areas that need correcting and reports to HQ AFMOA/SGPA.
- Conducts impact analysis and cost predictions of new and projected compliance requirements involving environmental monitoring.
- Serves as central repository of environmental quality data for the Air Force.

Section B—Management and Reporting Requirements

4. Using the Information Management System. MAJCOMs and installations use the Work Information Management System--Environmental Subsystem (WIMS-ES) to track and report information on all regulatory inspections, enforcement actions, and compliance agreements. See AFI 32-7002, *Environmental Information Management System*, for guidelines on using WIMS-ES.

4.1. (Added-AFRC) Reporting Mechanism. Guidance included in this supplement will be used in lieu of WIMS-ES until ACES-EM module is developed and implemented for tracking and reporting.

5. Reporting on Regulatory Inspections. Installations submit WIMS-ES inspection results through the MAJCOM to HQ USAF promptly (RCS: HAF-CEV(AR)9416 , *Inspection Log*). This report is designated emergency status code D. Discontinue reporting during emergency conditions.

5.1. (Added-AFRC) Pre-Inspection. Before the inspection, if the regulator gives advance notice, installations shall report to HQ AFRC/CEV by e-mail, within 1 working day following the receipt of notice. E-mail reports shall include the name of regulatory agency, expected dates of inspection, and programs or areas that will be inspected. Any relevant information that can accompany this notification should be included as time permits, such as open Notice of Violations (NOVs), and past history of non-compliance in the areas to be inspected.

5.2. (Added-AFRC) Post-Inspection. After the inspection, installations shall report to HQ AFRC/CEV by e-mail, within 1 working day following the completion of inspection. E-mail reports shall include the regulatory driver of the inspection, facilities and equipment inspected, documents reviewed and potential regulatory violations. A summary of any outbrief received and documents delivered by regulators should be made available to HQ AFRC/CEV.

5.3. (Added-AFRC) Recurring Inspections. All recurring or routine inspections shall be reported. Installations can refer to paragraphs **5.1. (Added)** and **5.2. (Added)** as appropriate.

6. Reporting and Managing Enforcement Actions:

6.1. **Immediate Notification.** Any actual or likely action against the Air Force that involves fines, penalties, media attention, or has an off-base impact requires MAJCOMs to immediately notify HQ USAF/CEVC, AFLSA/JACE, and the appropriate regional compliance office. Notify these organizations initially by telephone. Within 24 hours, write and send a report describing the violations and what is being done about them (RCS: HAF-CEV(AR)9432, *Immediate Report of Enforcement Action*). This report is designated emergency status code C-2. Continue reporting during emergency conditions.

6.2. Routine Notifications. Installations send, through the MAJCOM, copies of enforcement actions and all related correspondence to the appropriate regional compliance office within 10 working days after receiving it from the regulator (RCS: HAF-CEV(AR)8603 , *Report of Notices of Violation and Noncompliance*). This report is designated emergency status code D. Discontinue reporting during emergency conditions.

6.3. Enforcement Action Reporting. Installations send, through the MAJCOM, a summary describing the violations and what is being done about them to the appropriate regional compliance office soon after receiving any enforcement action. Installations also send updated status on each open enforcement action through the MAJCOM to the regional compliance office soon after the end of each calendar quarter. Use WIMS-ES to satisfy these requirements (RCS: HAF-CEV(Q&AR)9415, *Report of Enforcement Actions*). This report is designated emergency status code D. Discontinue reporting during emergency conditions.

6.3.1. (Added-AFRC) Non-Compliance Notification. If an Enforcement Action (EA) is received from a regulatory agency, bases shall report to their Unit/PA, HQ AFRC/CEV/PAC and appropriate NAF/CC/PA by e-mail within 1 working day following receipt of the EA. Fax or send a copy of the EA document and available ancillary documents such as letters, inspection reports, notes, copies of the law, to HQ AFRC/CEV and appropriate NAF/CC. The package should be as complete as possible given the time constraints.

6.3.2. (Added-AFRC) Non-Compliance Response. If an EA is received, bases shall report to HQ AFRC/CEV/JAV and appropriate NAF/CC by e-mail, prior to the base sending an EA corrective action/response letter to the regulatory agency which issued the EA. Send the draft EA response letter to HQ AFRC/CEV/JAV for review and coordination. Following HQ AFRC/CEV/JAV and NAF concurrence, bases shall send the final EA response letter to the regulatory agency. The installations shall be responsible for coordinating letters in time to meet regulator required response time. If the regulator does not set a response time, the installation response will be sent within 14 calendar days after the EA receipt. Send HQ AFRC/CEV a copy of the final EA response letter within 1 working day following submission to the regulatory agency.

6.4. Enforcement Action Color Codes. Regional compliance offices assign color codes to open enforcement actions. Color codes are red, yellow, or green depending on the status of close-out actions.

- **Code Red:**
 - No final decision exists on the specific actions and schedule to correct an open enforcement action.
 - Actions to correct an open enforcement have not begun.
 - A fix date on a code yellow action slips from the date previously reported by the MAJCOM, and adequate justification for the slippage cannot be provided.
- **Code Yellow.** Actions to correct findings noted in an enforcement action are underway. Code yellow enforcement actions must be assigned a fix date and an estimated compliance date (ECD).
- **Code Green.** The Air Force corrected the violations and notified the regulatory agency.

6.5. Long-Term Enforcement Action Fixes:

- Installations and MAJCOMs establish project milestones when an O&M or MILCON project is required to correct violations noted in an enforcement action.
- Installations report, through the MAJCOM, project milestone status to the appropriate regional compliance office and update milestone status quarterly (see 6.3.).
- Milestone status information includes the decision date, design status, design completion date, construction start date, and the construction completion date.

6.5.1. (Added-AFRC) Enforcement Action Updating. If an EA is received, bases shall update HQ AFRC/CEV and their NAF by e-mail by the last working day of the month following the receipt of EA, and every monthly period thereafter, until the EA is considered closed by HQ AFRC/CEV. Report shall include an update of progress made towards completing the corrective action and closing the EA.

6.5.2. (Added-AFRC) Enforcement Action Summary. HQ AFRC/CEV shall report EA summaries to all AFCEE Regional Environmental Offices and HQ USAF/ILEV at the beginning of the month. Reports shall include information regarding the EA received, corrective action response, and monthly updates until the EA is considered closed.

6.6. Closing Out an Enforcement Action. An enforcement action closes if any of these conditions exist:

- The regulator states in writing that they are satisfied with actions taken to resolve the findings noted in the enforcement action.
- The regulator rescinds the enforcement action.
- The regulator supersedes one enforcement actions with another.
- A compliance agreement is signed which supersedes and incorporates the enforcement action.
- A completed Federal Facilities Agree-ment (FFA) transfers projects to correct the violations to CERCLA for completion under the Installation Restoration Program.
- A regional compliance office finds that the enforcement action is not open on EPA or state records. The regional compliance office notifies the MAJCOM and base in writing that the action is closed.
- A regulator agrees to close an enforcement action after discussions with a regional compliance office. The regional compliance office notifies the MAJCOM and base in writing that the action is closed.
- An installation enters into a memorandum of agreement (MOA) with a regulatory agency that allows for closing enforcement actions. Under such an MOA, an enforcement action closes when the regulatory agency fails to respond within an agreed period after the installation announces finishing all actions to resolve the violations.

7. Making Compliance Agreements:

7.1. **Philosophy.** Air Force installations should enter into reasonable, fiscally sustainable compliance agreements that demonstrate the mutual commitment of the Air Force and regulatory agencies to protect human health and the environment. Compliance agreements also facilitate closing enforcement actions by establishing mutually agreeable milestones for resolving noncompliance.

7.2. **Unreasonable Requests.** Installations and MAJCOMs must review proposed agreements carefully to make sure that they are not agreeing to anything unreasonable or unnecessary. Work closely with legal staffs while negotiating agreements to ensure that fiscal aspects of agreements comply with law.

7.3. **Consistency Review.** Installations and MAJCOMs must make sure that the terms of proposed compliance agreements are consistent with agreements signed by other Air Force installations. Send initial and later drafts of proposed compliance agreements and copies of other relevant correspondence to the regional compliance office and regional counsel for review.

7.4. **Compliance Agreement Reporting.** Installations send, through the MAJCOM, a summary report describing agreement milestones, schedule, and completion status to the appropriate regional compliance office soon after the installation signs the agreement. Installations also send updated status on each open compliance agreement through the MAJCOM to the regional compliance office soon after the end of each calendar quarter. Use WIMS-ES to satisfy these requirements (RCS: HAF-CEV(Q&AR)941 7, *Report of Compliance Agreements*). This report is designated emergency status code D. Discontinue reporting during emergency conditions.

7.5. **Schedules.** Installations must follow compliance agreement milestones and schedules. Notify the affected regulatory agency of anything that might make you miss a milestone.

7.6. **Compliance Agreement Color Codes.** Regional compliance offices assign color codes to open compliance agreements. Color codes are red, yellow, or green depending on the status of completion:

- **Red.** The installation missed a compliance agreement milestone.
- **Yellow.** The MAJCOM or installation expects to miss a milestone and has not requested a time extension from the regulator.
- **Green.** Actions to meet all milestones are on schedule.

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The Civil Engineer

Attachment 1**GLOSSARY OF ABBREVIATIONS, ACRONYMS, AND TERMS*****Abbreviations and Acronyms***

AFCEE—Air Force Center for Environmental Excellence

AFCESA—Air Force Civil Engineer Support Agency

AFI—Air Force Instruction

AFLSA—Air Force Legal Services Agency

AFMOA—Air Force Medical Operations Agency

AFPD—Air Force Policy Directive

CERCLA—Comprehensive Environmental Response, Compensation, and Liability Act

ECD—Estimated Compliance Date

EPA—Environmental Protection Agency

FOA—Field Operating Agency

MAJCOM—Major Command

MILCON—Military Construction Program

O&M—Operations and Maintenance

RCS—Report Control Symbol

SAF/MI—Assistant Secretary of the Air Force for Manpower, Reserve Affairs, Installations, and Environment

WIMS-ES—Work Information Management System--Environmental Subsystem

Abbreviations and Acronyms (Added-AFRC)

NAF—Numbered Air Force

Terms

Compliance Agreement—A formal agreement between an installation and a regulatory agency for correcting noncompliance. Such agreements usually define the actions to complete and the schedule for completing them. The installation commander or his representative typically signs compliance agreements on behalf of the Air Force.

Decision Date—The date an installation or major command makes a decision to adopt a specific fix to correct an enforcement action violation.

Enforcement Action—Any written notice from a Federal, state, district, county, or municipal regulatory agency indicating one or more violations of environmental statutes or regulations including warning letters, notices of violation or noncompliance, administrative orders, and consent orders.

Estimated Compliance Date—The date an installation or major command expects a regulator to acknowledge corrections for all findings of an enforcement action.

Fix Date—The date an installation or major command expects to notify a regulator that corrections were made for all findings of an enforcement action.